



**DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of:

Applicant for Security Clearance

)
)
)
)
)
)

ISCR Case No. 14-02955

Appearances

For Government: Eric Borgstrom, Esquire, Department Counsel
For Applicant: *Pro Se*

10/26/2015

Decision

WESLEY, Roger C., Administrative Judge:

History of Case

On December 3, 2014, the Department of Defense (DOD) Consolidated Adjudication Facility (CAF)), pursuant to Executive Order 10865 and Department of Defense Directive 5220.6 (Directive), dated January 2, 1992, issued a Statement of Reasons (SOR) to Applicant detailing why DOD adjudicators could not make the preliminary affirmative finding under the Directive that it is clearly consistent with the national interest to grant or continue a security clearance for Applicant, and recommended referral to an administrative judge to determine whether clearance should be granted, continued, denied or revoked.

Applicant responded to the SOR on December 15, 2014, and requested a hearing. The case was assigned to me on May 7, 2015, and was scheduled for hearing on June 16, 2015. A hearing was held on June 16, 2015, for the purpose of considering whether it would be clearly consistent with the national interest to grant, continue, deny, or revoke Applicant's security clearance. At hearing, the Government's case consisted of three exhibits; Applicant relied on one witness (himself) and two exhibits. The

transcript (R.T.) was received on June 24, 2015. Based upon a review of the case file, pleadings, exhibits, and testimony, eligibility to access classified information is granted.

Besides its four exhibits, the Government requested administrative notice of 11 documents, which are identified as follows: *Annual Report to Congress on Foreign Economic Collection and Industrial Espionage-2008*, National Counterintelligence Center (July 2009); *Annual Report to Congress on Foreign Economic Collection and Industrial Espionage-2000*, National Counterintelligence Center (2001); and *Annual Report to Congress on Foreign Economic Collection and Industrial Espionage-2005*, National Counterintelligence Center (August 2006);

Other documents requested for official notice by the Government include the following: *Former State Department Official Sentenced for Mishandling Classified Information* (E.D. VA January 2007); *Taiwan Exporter Arrested and Charged with Exporting Missile Components from the United States to Iran*, U.S. Department of Commerce (February 2010); *Taiwan Exporter is Sentenced to Three and a Half Years for Conspiring to Export Missile Components from the United States to Iran*, U.S. Department of Commerce (August 2010);

Additional documents covered by the Government's Administrative Notice are as follows: *Intelligence Threat Handbook* [Unclassified] (June 2004); *Two Taiwanese Nationals Charged in New Jersey with Conspiring to Export Sensitive U.S. Military technology to China*, (D. N.J. April 2012); *North Wales Man Sentenced for Illegally Exporting Goods*, U.S. Department of Commerce (January 2013); *Taiwanese National Pleads Guilty to Attempting to Illegally Export Aerospace-Grade Carbon Fiber*, U.S. Department of Commerce (December 2012); and *Manhattan U.S. Attorney Announces Arrest of Queens Resident for the Export of Military-Use Items to Taiwan and Attempting to Export them to China*, U.S. Department of Commerce (December 2012).

Administrative or official notice is the appropriate type of notice used for administrative proceedings. See ISCR Case No. 05-11292 (App. Bd. April 12, 2007); ISCR Case No. 02-24875 (App. Bd. October 12, 2006). Administrative notice is appropriate for noticing facts or government reports that are well known. See *Stein*, Administrative Law, Sec. 25.01 (Bender & Co. 2006). The Government's administrative notice request was admitted as HE 1.

For good cause shown, administrative notice was granted with respect to the above-named background reports addressing the geopolitical situation and security in Taiwan. Administrative notice was extended to the documents themselves, consistent with the provisions of Fed. R. Evid. 201. This notice did not foreclose Applicant from challenging the accuracy and reliability of the information contained in the reports addressing Taiwan's current state.

In addition to the above-described documents, I took official notice of *Background Note: Taiwan*, U.S. Department of State (September 2008) following the personal appearance. After receiving no objections from the parties, I assigned this document an

official notice number of XII. I also admitted two recent news summaries covering Taiwan's upcoming national elections in January 2016 as AE C.

Summary of Pleadings

Under Guideline B, Applicant allegedly has a mother-in-law and brother-in-law who are citizens and residents of Taiwan. The nature of their relationships with Applicant are not covered in the SOR.

In his response, Appellant admitted to having a mother-in-law and brother-in-law who are citizens and residents of Taiwan. He denied that either of his listed relatives could be placed in a position where Applicant would have to choose other than for the interest of the United States. He claimed there is no conflict of interest, because of his deep and longstanding relationships and loyalties in the United States, which dictate his choosing in favor of the U.S interest should a conflict ever arise. Applicant further claimed that his interactions with his family members residing in Taiwan are casual and infrequent. And he claimed he has no foreign business, financial interest, or property interest in Taiwan.

Findings of Fact

Applicant is a 60-year-old engineer for a defense contractor who seeks a security clearance. The allegations covered in the SOR and admitted by Applicant are adopted as relevant and material findings. Additional findings follow.

Applicant's background

Applicant married in September 1988 and has three grown children who were born and raised in the United States. (GEs 1-2) His wife is a naturalized U.S. citizen, trained in biochemistry, and has been a homemaker since 1991. (GEs 1-2 and AEs B-C; Tr. 32) Applicant immigrated to the United States with his parents in 1969 at the age of 14. (GEs 1-2 and AEs B-D) His mother is a naturalized U.S. citizen and resident of the United States; while his father is deceased (date unknown). (GE 1)

Applicant became a naturalized U.S. citizen in December 1974. (GE 1) Between September 1973 and September 1983, he attended a respected U.S. university and earned degrees in engineering. Specifically, he earned a bachelor's degree in electrical engineering in 1977, a master's degree in computer engineering in 1979, and a Ph.D in electrical and computer engineering in 1983. (GE 1-2 and AE D)

Since 2012, Applicant has been employed by his current employer. (GEs 1-2 and AEs B-D) as an engineering consultant. As an engineer, he designs computers and chips. (Tr. 55) Prior to joining his current firm, he was employed by a research firm as an engineer. He worked for this firm for almost 30 years (i.e., September 1983 through December 2012). Applicant claimed no military service. (GE 1)

Applicant has no affiliation with a foreign government (Taiwan included) and has never had any employment or contact with a foreign government or foreign nationals attributable to his contacts with his relatives residing in Taiwan. (GE 2; Tr. 53) Consistently, he votes in local U.S. elections. (Tr. 53) He has considerable assets in the United States. His assets include a home (mortgage free) and a 401(k) retirement account valued between \$100,000 and \$1,000,000. (Tr. 48-49) By contrast, neither Applicant nor his wife own any property or investments in Taiwan, or inherited any property from their parents. (Tr. 49) Applicant spends most of his spare time volunteering in charitable activities in his local community. (Tr. 51-53)

Applicant's mother-in-law and brother-in-law are both citizens and residents of Taiwan. (GEs 1 and 2) His mother-in-law is a widow in her mid-80s who served in the Taiwan military and has since retired. (AE C) Applicant considers his mother-in-law and brother-in-law to be persons of integrity "who would never allow themselves to be influenced or coerced into asking him or his family to betray the trust represented by a security clearance." (AE C) Both are financially stable and require no financial support. (Tr. 47) His mother-in-law has no affiliations or connections with the Taiwan military or government, or any prior military service that would entitle her to a pension. She receives a military pension through her husband's military service (not by virtue of any military service of her own), and recently became unemployed. (GE 2 and AEs C-D) Applicant maintains infrequent contact with his mother-in-law. (AE B) He has met her on five separate occasions: (a) when she visited Applicant and his wife in the United States in 1988 for their marriage, for the birth of their daughter in 1990, and for the birth of their son in 1992 and (b) when he visited his mother-in-law in Taiwan in 1988, 1989, and 1990. (AE B; Tr. 41)

Applicant's wife does not have any regular contact with her mother. (Tr. 54-55) Typically, she makes weekly calls to her mother-in-law and last visited her mother in Taiwan in 2014. (Tr. 45, 49) She has infrequent contact with her brother. (Tr. 45)

Applicant's brother-in-law is married with two sons. (GE 1; Tr. 44) His brother-in-law is a retired military officer in the Taiwan army (with over 40 years of active duty service), and presumably has a military pension. He currently works as an engineering civilian for a Taiwan government-funded research institute in Taiwan. (GEs 3-4 and AEs C-D; Tr. 38) This institute's research and development division is responsible for independent research and the development of weapons systems and explosives. (GE 4; Tr. 38-39) Taiwan authorities have reportedly turned a portion of the institute into science-based industrial parks that could be used to accommodate private enterprises engaged in high-tech product research, development, and manufacturing. (GE 4) Applicant believes his brother-in-law has a military pension. (Tr. 47)

Applicant met his brother-in-law on three occasions: twice when Applicant was visiting his mother-in-law in Taiwan in 1989 and 2001, and briefly in 1990, when the brother-in-law was in the United States on a business trip. (AE B; Tr. 38-39) He last saw his wife's older brother in 2001 in Taiwan (Applicant's last trip to Taiwan). In their telephone encounters, they did not discuss the nature of his brother-in-law's work. Only

in 2013 during the course of his security clearance application was he made aware of his bother-in-law's employer. (AE B) Applicant maintains annual telephone contact with his brother-in-law. (GE 2)

Endorsements

Supervisors, friends, and co-professionals, who have known and worked with Applicant for a number of years, praise his engineering and research contributions and commend him for his integrity and trustworthiness. (AE A) His current employer's president and CEO has known Applicant as a colleague, work associate, and personal friend for over 27 years. (AE A) He credited Applicant's technical skills, teamwork, and interpersonal skills as exemplary and praised his overall reliability and trustworthiness. After working as a consultant for his current firm, his CEO converted him to regular employment status in 2013 and is pleased with his recent performance. (AE A)

A friend of Applicant's for over 18 years in Applicant's church, who worked with Applicant in church-sponsored youth ministries, described him as a person "with solid personal integrity, strong inter-personal skills and an excellent ability to work with teams of people who have varied gifts and maturity." (AE A)

Taiwan's country status

Taiwan has a rich history that dates back 12 to 15 thousand years. Dutch and Spanish colonists claimed the island in the 16th and 17th centuries. *See Background Note: Taiwan, supra.* Migration from the Chinese mainland over time supplanted the aborigine peoples of Taiwan. Japan exerted considerable influence over Taiwan following China's ceding of Taiwan to Japan in 1895. (*Id.*)

Following the end of World War II in 1945, Taiwan reverted to Chinese rule. Civil war erupted soon after the reversion between Chiang Kai-Shek's Kuomintang (KMT) party and the increasingly influential Chinese Communist Party guided by Mao Zedong. When the civil war ended in 1949, two million refugees (predominantly nationalists) fled to Taiwan, where Chiang Kai-Shek established a separate provisional KMT capital in Taipei. *See Background Note: Taiwan, supra,* at 3. Mao's victorious Communist party, in turn, established the People's Republic of China (PRC).

For the past half century, Taiwan has demonstrated steady economic development and today is a major international trading power. Its accession to the world Trade Organization (WTO) in 2002 represented a significant achievement and strengthened its standing in the expanding global economy.

Taiwan has exhibited steady political development as well since its establishment as an island government. Changes reflect a continuing liberalizing process that culminated in the tightly contested election of Chen Shui-bian in 2000. *See Background Note: Taiwan, supra,* at 5-6. Chen's Democratic Progressive Party (DPP) won major parliamentary victories in 2000 and again in 2004, enabling Chen to become the first

opposition party candidate to win the presidency. Chen was re-elected in 2004 on a platform that included a “defensive referendum.” (*Id.*, at 6) Such referenda have been historically perceived to be closely linked to the question of Taiwan’s independence.

Legislative elections in January 2008 produced a decisive majority for the KMT party over Chen’s DPP. (*Background Note: Taiwan, supra*, at 6) In the presidential election that was held one month later, Ma Ying-jeou prevailed, securing a united government under KMT control for the first time. (*Id.*) The January 2012 presidential and legislative elections were held concurrently for the first time (as the result of a constitutional amendment) and resulted in the reelection of Ma Ying-jeou and renewed KMT legislative control by the victorious KMT party.

Today’s Taiwan political system can appropriately be described as a multi-party democracy under a constitutional umbrella comprising five branches: executive, legislative, judicial, control and examination. By all accounts, Taiwan has a good human rights record and has demonstrated respect for the rule of contract in its commercial relations. Recent news reports discuss Taiwan’s upcoming elections in January 2016. *See News Reports about Taiwan Elections Scheduled for January 2016, supra*. Both of Taiwan’s major parties have nominated women as their presidential candidates: Tsai Ing-Wren of the DPP and Hung Hsiu-Chu of the KMT. Neither of these candidates are related to a former Taiwanese leader and explanations abound for the rise of women in Taiwan politics. (*Id.*) Most scholars attribute the rise of women in government to evolving global trends in female involvement in politics. Who prevails could have significant affects on U.S.-Taiwan relations. Whereas, Ms. Tsai has close connections to the Chen Shui-bian administration (2000-2008), Ms. Hung is closely aligned to the DPP, rising through its political ranks. (*Id.*)

Taiwan’s PRC relations

The PRC does not recognize Taiwan’s independence, and insists that there is only “one China” (*see Background Note: Taiwan, supra*, at 7). Despite differences over the PRC’s one China policy, Taiwan and the PRC have enjoyed increased contacts over the past decade. (*Id.*) Over the past several years, Taiwan has relaxed restrictions on unofficial contacts with the PRC. With Taiwan’s continued relaxation of its PRC policy regarding unofficial contacts, cross-strait interactions have grown significantly.

With increasing contacts between Taiwan and the PRC, cross-strait trade has grown rapidly over the past 10 years. (*Background Note: Taiwan, supra*, at 7-8) China is Taiwan’s largest trading partner, and Taiwan is China’s seventh largest. (*Id.*) In June 2010, following prolonged negotiations, the two sides signed an Economic Cooperation Framework Agreement (ECFA), which was designed to liberalize cross-strait trade in products and services, with the long-term goal of eventually creating an essentially free-trade regime. The development of semi-official cross-strait relations between Taiwan and the PRC hopefully will contribute to tension reductions and to an environment conducive to an eventually peaceful resolution of outstanding differences between the two sides. (*Id.*, at 8)

The PRC operates a large and sophisticated intelligence bureau, entitled the MSS. See *Intelligence Threat Handbook, supra*, at 17-20. The MSS maintains active intelligence gathering operations in Taiwan (*Id.*, at 20). These operations use clandestine agents to collect intelligence on Western consortia investing in the PRC who are suspected of involvement in attempts to democratize the PRC, as well as other pro-democracy groups thought to be engaging in anti-communist activities (*Id.*)

In the current political environment, it is still too early to predict the direction of cross-strait negotiations between Taiwan and the PRC. Because of the PRC's long insistence on Taiwan's acceptance of the "one China" principle as a requisite to any jump-starting of negotiations over practical agreements in trade, cultural exchanges, and other areas of mutual interest, future relations between the two sides remain cloudy at best.

U.S.-Taiwan relations

In a joint communique with the PRC in January 1979, the U.S. announced its recognition of the government of the PRC as the sole government of China and that there is but one China, of which Taiwan is a part. (*Background Note: Taiwan, supra*, at 7) The Joint Communique stated that within this context the people of the United States will maintain cultural, commercial, and other unofficial relations with the people of Taiwan.

To implement the joint communique, Congress passed the Taiwan Relations Act (TRA) in April 1979. President Carter, in turn, signed the legislation into law on April 10, 1979. Besides providing the legal basis for maintaining the U.S. unofficial relationship with Taiwan, the TRA reinforced the U.S. commitment to providing defense assistance to Taiwan. The TRA expressly provides for the continued sale of appropriate defensive military equipment to Taiwan and declares that peace and stability in the area are in U.S. interests. See *Background Note, Taiwan, supra*, at 9-10. And even though the United States terminated its Mutual Defense Treaty with Taiwan following its de-recognition of the latter, it has continued its sale of appropriate defensive military equipment to Taiwan. (*Id.*)

While ambiguously written, the U.S. commitment to Taiwan's security against cross-strait aggression by the PRC's military forces is implicit in the TRA's coverage of U.S. responsibilities towards Taiwan. This implicit construction is oft-used to support proponents of a "two China" policy. To be sure, initial actions of the Bush Administration in 2001 provided cause to conclude that President Bush abandoned longstanding U.S. policy of "strategic ambiguity" in favor of a policy that placed a clearer emphasis on Taiwan's interests at the expense of the PRC. See *Background Note: Taiwan, supra*, at 8-9. More recent developments, though, reflect the smoothing of U.S.-PRC relations as a part of the broader war on terrorism.

Currently, the United States does not support Taiwan independence and opposes unilateral steps by either side to alter the status quo. (*Background Note: Taiwan, supra*, at 9-10) For so long as Taiwan's national security remains under threat (both veiled and

unveiled) from the PRC, Taiwan can be expected to pursue the development of its military amidst expectations of military assistance from the United States. Stressing self-reliance, Taiwan maintains a large military establishment (accounting for 2.9 per cent of its gross domestic product). (*Id.*, at 6). Its principal mission is to defend itself against the PRC, which has not renounced the use of force against Taiwan (*Id.*) With its unchanged public policy of maintaining “strategic ambiguity” in its official relations with Taiwan, the United States can be expected to continue its support of Taiwan’s island security with the sale of defensive military equipment.

Taiwan’s economic collection practices

Based on past reports to Congress, Taiwan is considered one of the most active collectors of U.S. economic and proprietary information. In its 2008 Annual Report to Congress on Foreign Economic Collection and Industrial Espionage, the Counterintelligence Executive (CE) listed Taiwan as well as the PRC among the most active collectors based on cited surveys. See *Annual Report to Congress on Foreign Economic Collection and Industrial Espionage, supra*, at 12. Specific incidents are cited in the CE’s report that identify offenders of proprietary information thefts and attempts to acquire export-restricted products. (*Id.*, at 11)

Recent espionage convictions document ongoing collection activities covering theft of sensitive and proprietary information by and for Taiwan companies. See Administrative Notice, *supra*, at 3-4, and press releases covering specific cases involving criminal and civil charges brought against Taiwan exporters of controlled items and components and sensitive technology, *supra*. Multilateral export control regimes in place are voluntary and not universally adhered to by member nations.

Stress points between Taiwan, the PRC and the United States

In its Annual Reports to Congress in 2000, 2005, and 2008, the National Counterintelligence Executive described the PRC as a country intent on acquiring and exploiting the knowledge developed by multiples of collection agents: legally, if possible, and otherwise illegally by espionage. See *Annual Report to Congress on Foreign Economic Collection and Industrial Espionage, supra*. Recent indictments of Chinese citizens for espionage have served to highlight the PRC’s spying activities in the U.S. (*Id.*) Violating its own 2004 U.S.-China agreement, the PRC oft-fails to schedule timely end-use inspection visits of dual-use items licensed for export to the PRC. Better export controls can be effective only if they are multilateral in scope. Multilateral export controls and arms embargoes, however, do provide additional insurance against altering the cross-strait military balance that has been long maintained. (*Id.*, at 7)

Without effective dual use export controls in place, the PRC can be expected to acquire dual use technologies with military potential from the United States and Taiwan through the United States and other source countries. Reported intelligence, though, is lacking on any Taiwan use of its collection resources in the United States to supply

the PRC with needed military technology (alone or through technology with known dual use capabilities).

Other stress points between the PRC and Taiwan are reflected in periodic PRC military exercises in the Taiwan Straits. See *Background Note: Taiwan, supra*, at 6-7. More frequent U.S.-PRC high-level exchanges have the potential to reduce cross-strait military tensions. (*Id.*, at 7)

Policies

The AGs for Determining Eligibility for Access to Classified Information (effective September 2006) list Guidelines to be considered by administrative judges in the decision making process covering DOHA cases. These Guidelines require the administrative judge to consider all of the "Conditions that could raise a security concern and may be disqualifying" (Disqualifying Conditions), if any, and all of the "Mitigating Conditions," if any, before deciding whether or not a security clearance should be granted, continued or denied.

In addition to the relevant AGs, administrative judges must take into account the pertinent considerations for assessing extenuation and mitigation set forth in AG ¶ 2(a) of the AGs, which are intended to assist the judges in reaching a fair and impartial commonsense decision based upon a careful consideration of the pertinent guidelines within the context of the whole person.

The adjudicative process is designed to examine a sufficient period of an applicant's life to enable predictive judgments to be made about whether the applicant is an acceptable security risk. The following AG ¶ 2(a) factors are pertinent: (1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Viewing the issues raised and evidence as a whole, the following adjudication policy factors are pertinent herein:

Foreign Influence

The Concern: "Foreign contacts and interests may be a security concern if the individual has divided loyalties or foreign financial interests, may be manipulated or induced to help a foreign person, group, organization, or government in a way that is not in U.S. interests, or is vulnerable to pressure or coercion by any foreign interest. Adjudication under this Guideline can and should consider the identity of the foreign

country in which the foreign contact or financial interest is located, including, but not limited to, such considerations as whether the foreign country is known to target United States citizens to obtain protected information and/or is associated with a risk of terrorism.”

Burden of Proof

By virtue of the precepts framed by the Directive, a decision to grant or continue an Applicant's request for security clearance may be made only upon a threshold finding that to do so is clearly consistent with the national interest. Because the Directive requires administrative judges to make a common sense appraisal of the evidence accumulated in the record, the ultimate determination of an applicant's eligibility for a security clearance depends, in large part, on the relevance and materiality of that evidence. As with all adversary proceedings, the Judge may draw only those inferences which have a reasonable and logical basis from the evidence of record. Conversely, the Judge cannot draw factual inferences that are grounded on speculation or conjecture.

The Government's initial burden is twofold: (1) it must prove any controverted fact[s] alleged in the Statement of Reasons, and (2) it must demonstrate that the facts proven have a material bearing to the applicant's eligibility to obtain or maintain a security clearance. The required showing of material bearing, however, does not require the Government to affirmatively demonstrate that the applicant has actually mishandled or abused classified information before it can deny or revoke a security clearance. Rather, consideration must take account of cognizable risks that an applicant may deliberately or inadvertently fail to safeguard classified information.

Once the Government meets its initial burden of proof of establishing admitted or controverted facts, the burden of proof shifts to the applicant for the purpose of establishing his or her security worthiness through evidence of refutation, extenuation or mitigation of the Government's case.

Analysis

Applicant is a naturalized U.S. citizen who immigrated to the United States from Taiwan in 1969 with his parents at the age of 14 to pursue a better life. Security concerns arise over the status of Applicant's mother-in-law and brother-in-law, who are citizens and residents of Taiwan, a country historically friendly to the United States, albeit, one with a reported history of economic collection activities in the United states.

Department Counsel urges security concerns over risks that Applicant's mother-in-law and brother-in-law residing in Taiwan, might be subject to undue foreign influence by Taiwanese government authorities to access classified information in Applicant's possession or control. Because Applicant's extended family members reside in Taiwan, they present potential heightened security risks covered by disqualifying condition (DC) ¶ 7(a) of the AGs for foreign influence: “contact with a foreign family member, business or

professional associate, friend, or other person who is a citizen of or resident in a foreign country if that contact creates a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion.” The citizenship/residence status of these extended family members in Taiwan pose some potential concerns for Applicant because of the risks of undue foreign influence that could compromise sensitive or classified information under Applicant's possession and/or control.

Little is known about the military backgrounds of both in-laws. All that is known about Applicant's mother-in-law is that she is a homemaker who receives a military pension through her deceased husband. Even less is known about his brother-in-law who served as an officer in Taiwan's army for over 40 years before his retirement.

Because Applicant's mother-in-law has a military pension, and his brother-in-law has prior military service (although aged for the most part), a presumed military pension, and current government employment with a Taiwan research institute, some consideration of DC ¶ 7(b), “connection to a foreign person, group, government, or country that create a potential conflict of interest between the individual's obligation to protect sensitive information or technology and the individual's desire to help a foreign person, group, or country by providing that information,” is warranted as well. Applicant's contacts with his mother-in-law and brother-in-law residing in Taiwan afford him some potential for accessing Taiwan officials who might be interested in proprietary, sensitive, or even classified information, that Applicant is privy to. Still, none of Applicant's extended family members have any identified affiliations or contacts with Taiwan officials currently known to be associated with intelligence or military organizations interested in collecting proprietary or sensitive information in the United States.

The AGs governing collateral clearances do not dictate *per se* results or mandate particular outcomes for applicants with relatives who are citizens/residents of foreign countries in general. What is considered to be an acceptable risk in one foreign country may not be in another. The geopolitical aims and policies of the particular foreign regime involved do matter. And the AGs do take into account the country's demonstrated relations with the United States as an important consideration in gauging whether the particular relatives with citizenship and residency elsewhere create a heightened security risk. Taiwan, while reported to target the United States and its companies in the past for economic and proprietary information, is still a country with no known recent history of hostage taking or disposition for exerting undue influence against family members to obtain either classified information, or unclassified economic and proprietary data.

The special relationship that has existed between the United States and Taiwan over the past half-century has been one marked by mutually reconcilable political and economic interests. Reports of Taiwan intelligence gathering against U.S. companies are counterbalanced by Taiwan's history of friendship and partnership in a defense pact formalized in 1979. The mutually supportive bonds that have linked Taiwan's special relationship with the United States have not been weakened by either the TRA, or the geopolitical forces that have shaped the U.S.'s evolving relationship with the PRC.

Taiwan remains a friend of the United States and is a country whose democratic institutions are not incompatible with our own traditions and respect for human rights and the rule of law. Whatever potential heightened security risks arise as the result of Applicant's having family members with citizenship and residency in Taiwan are by every reasonable measure mitigated.

As for security concerns associated with the presence of Applicant's mother-in-law and brother-in-law in Taiwan, any potential heightened risk of a hostage situation or undue foreign influence brought in the hopes of eliciting either classified information or economic or proprietary data out of Applicant through his extended family members residing in Taiwan is an acceptable one. For not only does Applicant have infrequent contact with his family members residing in Taiwan (bi-weekly for his mother-in-law and annually for his brother-in-law), but he has no property or financial interests in Taiwan and has pledged his loyalty and support to the United States where he has lived continuously since immigrating to this country in 1969. During this time, he has amassed considerable property interests and close family and community relationships. Applicant, accordingly, may take advantage of one important mitigating condition:

MC ¶ 8(a), the nature of the relationships with foreign persons, the country in which these persons are located, or the persons or activities of these persons in that country are such that it is unlikely the individual will be placed in a position of having to choose between the interests of a foreign a foreign individual, group, organization, or government and the interests of the U.S.

Whole person assessment also serves to minimize Applicant's exposure to conflict of interests with his Taiwan in-laws. Not only has Applicant become a naturalized U.S. citizen (in 1974) and received his advance degrees in the United States, but he has made every effort to work, save, and pursue his financial interests exclusively in the United States. Applicant is highly regarded and trusted by his company CEO and close friends, who are not aware of any risks of coercion, pressure, or influence that Applicant's mother-in-law and brother-in-law might be exposed to in Taiwan.

In Applicant's case, any likelihood of coercion, pressure, or influence being brought to bear on any of his extended family members would appear to be minimal. By all reasonable accounts of the presented record, Applicant has few visible conflicts of interest with Taiwan citizens and residents or property interests in Taiwan that could be at risk to exploitation or compromise by Taiwan authorities. The only potential exceptions are the military pensions of Applicant's mother-in-law and brother-in-law, and these pensions do not appear to present any security risks that cannot be managed effectively.

Overall, any potential security concerns attributable to Applicant's extended family members in Taiwan are sufficiently mitigated to permit safe predictive judgments about Applicant's ability to withstand risks of undue influence attributable to his familial

relationships in Taiwan. Favorable conclusions are warranted with respect to the allegations covered by Guideline B.

Formal Findings

In reviewing the allegations of the SOR in the context of the findings of fact, conclusions, and the factors and conditions listed above, I make the following separate formal findings with respect to Applicant's eligibility for a security clearance.

GUIDELINE B: (FOREIGN INFLUENCE): FOR APPLICANT

Subpara. 1.a: For APPLICANT

Formal Findings

In light of all the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant or continue Applicant's security clearance. Clearance is granted.

Roger C. Wesley
Administrative Judge